

§ 842.96

32 CFR Ch. VII (7-1-98 Edition)

government in the absence of statutory authority to reimburse.

(e) Monies recovered against a foreign government or any of its political subdivisions. (HQ USAF/JACC may authorize this claim as an exception to the rule).

[55 FR 2809, Jan. 29, 1990, as amended at 55 FR 32077, Aug. 7, 1990]

§ 842.96 Asserting the claim.

The base SJA asserts the claim against the tort-feasor by mailing, certified mail, return receipt requested, the original and one copy of a "Notice of Claim" that includes the following:

(a) Reference to the statutory right to collect.

(b) A demand for payment or restoration.

(c) A description of damage.

(d) The date and place of incident.

(e) The name, phone number, and office address of claims personnel to contact.

§ 842.97 Referring a claim to the US Attorney or the Department of Justice.

All claims must be authorized for referral by HQ USAF/JACC prior to being sent to either the US Attorney or the Department of Justice. All claims for demands of more than \$20,000.00 which are not collected in full by a settlement authority will be referred (with HQ USAF/JACC approval) to DOJ.

§ 842.98 Statute of limitations.

The government must file suit within 3 years after the cause of action accrues. It accrues when a responsible US official knew or reasonably should have known the material facts that resulted in the claimed loss.

§ 842.99 Compromise, termination, and suspension of collection.

This section establishes the guidelines for compromise, termination, or suspension of a claim.

(a) Compromise of a claim is allowable when:

(1) The tort-feasor is unable to pay the full amount within a reasonable time. (A sworn statement showing the debtor's assets and liabilities, income, expenses, and insurance coverage

should be obtained and included in the claim file).

(2) The Government is unable to collect a claim in full within a reasonable time even though the enforced collection proceedings are used for collection.

(3) The cost to collect does not justify enforced collection of the full amount.

(4) The government may have difficulty proving its case in court for the full amount claimed.

(b) Compromise is not allowable when there may be fraud, misrepresentation, or violation of antitrust laws. The Department of Justice must authorize compromise of such claims.

(c) Termination of collection is allowable when:

(1) The government is unable to collect the debt after exhausting all collection methods.

(2) The government is unable to locate the tort-feasor.

(3) The cost to collect will exceed recovery.

(4) The claim is legally without merit.

(5) The evidence does not substantiate the claim.

(d) Suspension of collection is allowable when:

(1) The government is unable to locate tort-feasor.

(2) The tort-feasor is presently unable to pay but:

(i) The statute of limitations is tolled or is running anew.

(ii) Future collection may be possible.

Subpart M—Claims Under the National Guard Claims Act (32 U.S.C. 715)

§ 842.100 Scope of this subpart.

This subpart explains how to settle claims against the United States arising out of the noncombat activities of the Air National Guard (ANG), when its members are acting within the scope of their employment and performing duty under 32 U.S.C. Contact HQ USAF/JACC for guidance on any claim for property damage, injury or death by the ANG which accrued prior to 29 December 1981.